

§ 10.9

notice of intent to repatriate in the FEDERAL REGISTER.

[60 FR 62158, Dec. 4, 1995, as amended at 62 FR 41293, Aug. 1, 1997; 71 FR 16501, Apr. 3, 2006]

§ 10.9 Inventories.

(a) *General.* This section carries out section 5 of the Act. Under section 5 of the Act, each museum or Federal agency that has possession or control over holdings or collections of human remains and associated funerary objects must compile an inventory of such objects, and, to the fullest extent possible based on information possessed by the museum or Federal agency, must identify the geographical and cultural affiliation of each item. The purpose of the inventory is to facilitate repatriation by providing clear descriptions of human remains and associated funerary objects and establishing the cultural affiliation between these objects and present-day Indian tribes and Native Hawaiian organizations. Museums and Federal agencies are encouraged to produce inventories first on those portions of their collections for which information is readily available or about which Indian tribes or Native Hawaiian organizations have expressed special interest. Early focus on these parts of collections will result in determinations that may serve as models for other inventories. Federal agencies must ensure that these requirements are met for all collections from their lands or generated by their actions whether the collections are held by the Federal agency or by a non-Federal institution.

(b) *Consultation*—(1) *Consulting parties.* Museum and Federal agency officials must consult with:

- (i) Lineal descendants of individuals whose remains and associated funerary objects are likely to be subject to the inventory provisions of these regulations; and
- (ii) Indian tribe officials and traditional religious leaders:
 - (A) From whose tribal lands the human remains and associated funerary objects originated;
 - (B) That are, or are likely to be, culturally affiliated with human remains and associated funerary objects; and

43 CFR Subtitle A (10–1–11 Edition)

(C) From whose aboriginal lands the human remains and associated funerary objects originated.

(2) *Initiation of consultation.* Museum and Federal agency officials must begin inventory consultation as early as possible, no later in the inventory process than the time at which investigation into the cultural affiliation of human remains and associated funerary objects is being conducted. Consultation may be initiated with a letter, but should be followed up by telephone or face-to-face dialogue.

(3) *Provision of information.* During inventory consultation, museums and Federal agency officials must provide the following information in writing to lineal descendants, when known, and to officials and traditional religious leaders representing Indian tribes or Native Hawaiian organizations that are, or are likely to be, culturally affiliated with the human remains and associated funerary objects.

(i) A list of all Indian tribes and Native Hawaiian organizations that are, or have been, consulted regarding the particular human remains and associated funerary objects;

(ii) A general description of the conduct of the inventory;

(iii) The projected time frame for conducting the inventory; and

(iv) An indication that additional documentation used to identify cultural affiliation will be supplied upon request.

(4) *Requests for information.* During the inventory consultation, museum and Federal agency officials must request, as appropriate, the following information from Indian tribes and Native Hawaiian organizations that are, or are likely to be, culturally affiliated with their collections:

(i) Name and address of the Indian tribe official to act as representative in consultations related to particular human remains and associated funerary objects;

(ii) Recommendations on how the consultation process should be conducted, including:

(A) Names and appropriate methods to contact any lineal descendants of individuals whose remains and associated funerary objects are or are likely to be included in the inventory; and

(B) Names and appropriate methods to contact traditional religious leaders who should be consulted regarding the human remains and associated funerary objects.

(iii) Kinds of objects that the Indian tribe or Native Hawaiian organization reasonably believes to have been made exclusively for burial purposes or to contain human remains of their ancestors.

(c) *Required information.* The following documentation must be included, if available, for all inventories completed by museum or Federal agency officials:

(1) Accession and catalogue entries, including the accession/catalogue entries of human remains with which funerary objects were associated;

(2) Information related to the acquisition of each object, including:

(i) The name of the person or organization from whom the object was obtained, if known;

(ii) The date of acquisition,

(iii) The place each object was acquired, i.e., name or number of site, county, State, and Federal agency administrative unit, if applicable; and

(iv) The means of acquisition, i.e., gift, purchase, or excavation;

(3) A description of each set of human remains or associated funerary object, including dimensions, materials, and, if appropriate, photographic documentation, and the antiquity of such human remains or associated funerary objects, if known;

(4) A summary of the evidence, including the results of consultation, used to determine the cultural affiliation of the human remains and associated funerary objects pursuant to § 10.14 of these regulations.

(d) *Documents.* Two separate documents comprise the inventory:

(1) A listing of all human remains and associated funerary objects that are identified as being culturally affiliated with one or more present-day Indian tribes or Native Hawaiian organizations. The list must indicate for each item or set of items whether cultural affiliation is clearly determined or likely based upon the preponderance of the evidence; and

(2) A listing of all culturally unidentifiable human remains and associated

funerary objects for which no culturally affiliated present-day Indian tribe or Native Hawaiian organization can be determined.

(e) *Notification.* (1) If the inventory results in the identification or likely identification of the cultural affiliation of any particular human remains or associated funerary objects with one or more Indian tribes or Native Hawaiian organizations, the museum or Federal agency, not later than six (6) months after completion of the inventory, must send such Indian tribes or Native Hawaiian organizations the inventory of culturally affiliated human remains and associated funerary objects, including all information required under § 10.9 (c), and a notice of inventory completion that summarizes the results of the inventory.

(2) The notice of inventory completion must:

(i) Summarize the contents of the inventory in sufficient detail so as to enable the recipients to determine their interest in claiming the inventoried items;

(ii) Identify each particular set of human remains or each associated funerary object and the circumstances surrounding its acquisition;

(iii) Describe the human remains or associated funerary objects that are clearly culturally affiliated with an Indian tribe or Native Hawaiian organization and identify the Indian tribe or Native Hawaiian organization;

(iv) Describe the human remains or associated funerary objects that are not clearly identifiable as culturally affiliated with an Indian tribe or Native Hawaiian organization, but that are likely to be culturally affiliated with a particular Indian tribe or Native Hawaiian organization given the totality of circumstances surrounding acquisition of the human remains or associated objects; and

(v) Describe those human remains, with or without associated funerary objects, that are culturally unidentifiable but that are subject to disposition under § 10.11.

(3) If the inventory results in a determination that the human remains are of an identifiable individual, the museum or Federal agency official must convey this information to the lineal

§ 10.10

descendant of the deceased individual, if known, and to the Indian tribe or Native Hawaiian organization of which the deceased individual was culturally affiliated.

(4) The notice of inventory completion and a copy of the inventory must also be sent to the Manager, National NAGPRA Program. These submissions should be sent in both printed hard copy and electronic formats. Information on the proper format for electronic submission and suggested alternatives for museums and Federal agencies unable to meet these requirements are available from the Manager, National NAGPRA Program.

(5) Upon request by an Indian tribe or Native Hawaiian organization that has received or should have received a notice and inventory under paragraphs (e)(1) and (e)(2) of this section, a museum or Federal agency must supply additional available documentation.

(i) For purposes of this paragraph, “documentation” means a summary of existing museum or Federal agency records including inventories or catalogues, relevant studies, or other pertinent data for the limited purpose of determining the geographic origin, cultural affiliation, and basic facts surrounding the acquisition and accession of human remains and associated funerary objects.

(ii) Documentation supplied under this paragraph by a Federal agency or to a Federal agency is considered a public record except as exempted under relevant laws, such as the Freedom of Information Act (5 U.S.C. 552), Privacy Act (5 U.S.C. 552a), Archaeological Resources Protection Act (16 U.S.C. 470hh), National Historic Preservation Act (16 U.S.C. 470w-3), and any other legal authority exempting the information from public disclosure.

(iii) Neither a request for documentation nor any other provisions of this part may be construed as authorizing either:

(A) The initiation of new scientific studies of the human remains and associated funerary objects; or

(B) Other means of acquiring or preserving additional scientific information from the remains and objects.

(6) This paragraph applies when a the museum or Federal agency official de-

43 CFR Subtitle A (10-1-11 Edition)

termines that it has possession of or control over human remains or associated funerary objects that cannot be identified as affiliated with a lineal descendant, Indian tribe, or Native Hawaiian organization. The museum or Federal agency must provide the Manager, National NAGPRA Program notice of its determination and a list of the culturally unidentifiable human remains and any associated funerary objects. The Manager, National NAGPRA Program must make this information available to members of the Review Committee. Culturally unidentifiable human remains, with or without associated funerary objects, are subject to disposition under §10.11.

(7) The Manager, National NAGPRA Program must publish notices of inventory completion received from museums and Federal agencies in the FEDERAL REGISTER.

(f) *Completion.* Inventories must be completed not later than November 16, 1995. Any museum that has made a good faith effort to complete its inventory, but which will be unable to complete the process by this deadline, may request an extension of the time requirements from the Secretary. An indication of good faith efforts must include, but not necessarily be limited to, the initiation of active consultation and documentation regarding the collections and the development of a written plan to carry out the inventory process. Minimum components of an inventory plan are: a definition of the steps required; the position titles of the persons responsible for each step; a schedule for carrying out the plan; and a proposal to obtain the requisite funding.

[60 FR 62158, Dec. 4, 1995, as amended at 62 FR 41293, Aug. 1, 1997; 71 FR 16501, Apr. 3, 2006; 75 FR 12403, Mar.15, 2010]

§ 10.10 Repatriation.

(a) *Unassociated funerary objects, sacred objects, and objects of cultural patrimony*—(1) *Criteria.* Upon the request of a lineal descendant, Indian tribe, or Native Hawaiian organization, a museum or Federal agency must expeditiously repatriate unassociated funerary objects, sacred objects, or objects of cultural patrimony if all the following criteria are met: